

**COMMONWEALTH OF MASSACHUSETTS**  
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. 01-63

September 10, 2001

**COMMENTS OF DOMINION RETAIL, INC.**

Dominion Retail, Inc. ("**Dominion**") files these comments and respectfully requests the Department consider its position regarding "opt-out" and "opt-in" systems of customer enrollment.

Dominion believes that an "opt-out" system, such as the one described in General Laws Chapter 164 Section 134 in connection with municipal aggregation programs, and proposed for implementation in the Compact Pilot Project, does not truly provide consumers with practical choices. Such an "opt-out" system operates essentially as a form of "slamming" by the municipality. Notwithstanding any amount of well-intentioned disclosures, many, if not most, residential customers will not be aware of, much less understand, the alternatives available to them. To make matters worse, once the opt-out period concludes, a customer may have to pay a penalty fee in order to leave the program into which they had been placed, even though the switch was effected without their approval.

Dominion further submits that an "opt-out" program will likely serve to reduce competition in Massachusetts, not increase it. Energy marketers such as Dominion will be reluctant to invest significant resources and maintain a long-term presence in Massachusetts given the possibility that the adoption and implementation of an "opt-out" aggregation program could erode a marketer's customer base as customers are herded into an aggregation program.

Section 134 specifies that participation by a retail customer in an aggregation program "shall be voluntary", and although it contemplates the automatic enrollment of customers and an "opt out" process, it does not seem to forbid the use of a more truly voluntary "opt in" alternative by aggregators. Structuring municipal aggregation programs with an "opt in" feature would be less likely to discourage marketing companies from commencing operations in Massachusetts. Structuring such programs with an "opt-in" process might also encourage towns in which "opt-out" is not acceptable for political or other reasons to adopt the aggregation program, thereby promoting competition and the availability of multiple service alternatives.

We encourage the Department to consider the serious potential adverse effects of municipal aggregation programs such as the Compact Pilot Project on both individual consumers and the competitive market for energy generally if they are implemented without an "opt-in" alternative.